

(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Aissaoui <i>et al.</i>)	Confirmation No: 9192
)	
US Patent No.: 7,538,109)	Group Art Unit: 1642
)	
Filed: October 28, 2005)	Examiner: Murray, Jeffery H.
)	
Title: QUINOXALIN-3-ONE DERIVATIVES AS OREXIN RECEPTOR ANTAGONISTS)	Docket No.: AC-42-US
)	

**REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. § 1.705**

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

A Request for Recalculation of Patent Term Adjustment pursuant to 37 C.F.R. § 1.705 is submitted herewith. The Patentee respectfully submits that the United States Patent and Trademark Office (“Office”) erred by granting **468** days of Patent Term Adjustment, when in fact the Patentee should have been granted **617** days of Patent Term Adjustment. The Patentee submits that the reason for this error was due to the Office’s earlier interpretation of 35 U.S.C. 154(b)(2)(A) before the recent Federal Circuit decision in *Wyeth v. Kappos*, No 2009-1120 (Fed. Cir., Jan. 7, 2010). In light of that recent decision, the aforementioned 617 days of Patent Term Adjustment represents the correct calculation which is the resulting sum of both the “A” and “B” administrative delays, and not merely the longer delay of the two.

In the event that recalculation is not in accordance with the special procedure for recalculation in view of *Wyeth* (Form PCT/SB/131), recalculation is alternatively requested under 37 C.F.R. 1.181 on the basis that the two month period from issuance of the patent was effectively tolled pending the decision in the above noted *Wyeth v. Kappos*. In that event, the Commissioner is authorized to charge the fee under 37 C.F.R. §1.18(e), to Deposit Account No. 50-4255.

Application of AISSAOUI, et al
US Patent No.: 7,538,109

Attorney Docket No.: AC-46-US

Respectfully submitted,

Dated: 3/5/2010

By 

Brittany La

Reg. No. 58,337